UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

ASSOCIATION, LOCAL NO. 73,))) Case No. 22-CV-00605
and) Case 110. 22-C v -00003
THE TRUSTEES of the SHEET METAL WORKERS LOCAL NO. 73 PENSION FUND, SHEET METAL WORKERS LOCAL NO. 73 WELFARE FUND; and SHEET METAL WORKERS LOCAL NO. 73 ANNUITY FUND,)))) Magistrate Judge: Appenteng)
Plaintiffs,))
v.)
COMPLETE MECHANICAL PIPING, LLC,))
Defendant.	,)

MOTION FOR JUDGMENT AGAINST THIRD-PARTY CITEE FOR VIOLATION OF CITATION TO DISCOVER ASSETS'S RESTRAINING PROVISION

Plaintiffs, Sheet Metal Workers' International Association, Local No. 73, et al., by and through their attorneys, move this Court to enter a judgment against Third-Party Citee, State Mechanical Services, LLC, for its violation of the restraining provision in Plaintiffs' citation to discover assets served upon it, stating as follows:

- 1. On June 8, 2023, the Court entered a \$206,375.05 judgment against Defendant.
- 2. On July 17, 2023, Plaintiffs issued a citation to discover assets on State Mechanical. Ex. A.
- 3. Plaintiffs effected service of the citation on State Mechanical through its registered agent on July 20, 2024. Ex. B.
- 4. State Mechanical acknowledged receipt of the citation by a phone call to one of Plaintiffs' counsel, and indicated it held no property of Defendant.

- 5. State Mechanical never personally appeared to undergo citation examination, so as to terminate the citation proceeding.
- 6. Under FRCP 69(a)(1), where no federal statute provides for the means of execution on a money judgment, "[t]he procedure on execution—and in proceedings supplementary to and in aid of judgment or execution—must accord with the procedure of the state where the court is located."
 - 7. Under section 2-1402 of the Illinois Code of Civil Procedure:

A judgment creditor *** is entitled to prosecute citations to discover assets for the purposes of examining the judgment debtor or any other person to discover assets or income of the debtor not exempt from the enforcement of the judgment, a deduction order or garnishment, and of compelling the application of non-exempt assets or income discovered toward the payment of the amount due under the judgment.

The citation may prohibit the party to whom it is directed from making or allowing any transfer or other disposition of, or interfering with, any property not exempt from the enforcement of a judgment therefrom, a deduction order or garnishment, belonging to the judgment debtor or to which he or she may be entitled or which may thereafter be acquired by or become due to him or her, and from paying over or otherwise disposing of any moneys not so exempt which are due or to become due to the judgment debtor, until the further order of the court or the termination of the proceeding, whichever occurs first. The third party may not be obliged to withhold the payment of any moneys beyond double the amount of the balance due sought to be enforced by the judgment creditor. The court may punish any party who violates the restraining provision of a citation as and for a contempt, or if the party is a third party may enter judgment against him or her in the amount of the unpaid portion of the judgment and costs allowable under this Section, or in the amount of the value of the property transferred, whichever is lesser.

735 ILCS 5/2-1402(a), (f-1) (West 2022).

8. Consistent with subsection (f-1), the citation addressed to State Mechanical provided:

YOU ARE PROHIBITED from making or allowing any transfer or other disposition of, or interfering with, any property not exempt from execution or garnishment belonging to the judgment debtor or to which it may be entitled or which may be acquired by or become due to it; and from paying over to otherwise disposing of any money not so exempt, which is due or becomes due to it, until the further order of the Court or termination of the proceedings. You are not required to withhold the payment of any money beyond double the amount of the judgment. Ex. A.

9. Despite the admonitions of Plaintiffs' citation, which remained in effect, State Mechanical still made the following post-citation check-payments to Defendant:

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a. July 24, 2023: $84,562.76.
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b. Aug. 30, 2023: \$20,931.02.

c. Sept. 14-15, 2023: \$6,117.25.

d. Oct. 2-3, 27, 2023: \$21,465.41.

e. Oct. 27, 2023: \$35,724.83.

f. Nov. 8, 2023: \$6,495.22.

g. Nov. 29, 2023: \$10,131.69.

h. Dec. 11, 2023: \$638.77.

i. Dec. 28, 2023: \$11,056.69.

j. Jan. 10, 2024: \$24,312.92.

k. Feb. 14, 2024: \$30,796.59.

1. Mar. 1, 2024: \$85.20.

m. Mar. 12, 2024: \$35,810.22. Ex. C.

10. The total of State Mechanical's post-citation payments is \$291,128.57.

WHEREFORE, Plaintiffs ask this Court to enter a \$291,128.57 judgment in their favor and against third-party cite, State Mechanical Services, LLC, for its violation of the restraining provision of Plaintiffs' served citation to discover assets.

Respectfully submitted, SHEET METAL WORKERS' INTERNATIONAL ASSOCIATION, LOCAL NO. 73, et al.

By: /s/ Andrew S. Pigott
One of their attorneys

Gregorio, Stec, Klein, & Hose 2 N. LaSalle St., Ste. 1650 Chicago, IL 60602 312-263-2343 apigott@gregoriolaw.com

CERTIFICATE OF SERVICE

Andrew S. Pigott, an attorney, certifies he served the above and foregoing Motion for Judgment Against Third-Party Citee for Violation of Citation to Discover Assets's Restraining Provision by depositing in the U.S. mail at Two North LaSalle Street, Suite 1650, Chicago, IL, a true and correct copy thereof in a sealed envelope first class postage prepaid addressed to the person to the following individuals on the 30th day of May, 2024, as well as transmitting the same via electronic mail.

Mark Seikel, Vice Pres. of Operations State Mechanical Services, LLC 535 Exchange Ct. Aurora, IL 60504 mseikel@statemechservices.com Jason M. Loebach, Esq. Chitkowski Law Offices 901 Warrenville Rd., Ste. 103 Lisle, IL 60532 jml@chitkowskilaw.com

/s/: Andrew S. Pigott

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

SHEET METAL WORKERS' INTERNATIONAL ASSOCIATION, LOCAL NO. 73,)))) Case No. 22-CV-00605
THE TRUSTEES of the SHEET METAL WORKERS LOCAL NO. 73 PENSION FUND, SHEET METAL WORKERS LOCAL NO. 73 WELFARE FUND; and SHEET METAL WORKERS LOCAL NO. 73 ANNUITY FUND,)))) Magistrate Judge: Cummings)
Plaintiffs, v.)))
COMPLETE MECHANICAL PIPING, LLC,	Ó
Defendant.))

CITATION NOTICE

Judgment Debtors' last known address:

Judgment Creditor/Creditor's Attorney:

Name:

Complete Mechanical Piping, LLC Name:

John Phillip Festa

Address:

4542 W. Cermak Rd.

Address:

Two N. LaSalle Street,

Chicago, IL 60624

Suite 1650

Chicago, IL 60602

Judgment in the amount of: \$206,375.05, all of which remains unsatisfied.

Name of person receiving

Citation:

State Mechanical Services, LLC

Citation Date:

August 23, 2023 @ 10:00 am

Location of Citation:

Gregorio, Stec, Klein & Hosé Two N. LaSalle Street, Suite 1650,

Chicago, IL, 60602

NOTICE: The court has issued a citation against the person named above. The citation directs that person to appear in the Law Office of Gregorio, Stec, Klein & Hosé to be examined for the purpose of allowing the judgment creditor to discover income and assets belonging to the judgment debtors or in which the judgment debtors has an interest. The Citation was issued on the basis of a judgment entered against the judgment debtors in favor of the



judgment creditor in the amount stated above. On or after the citation date, the court may compel the application of any discovered income or assets toward payment on the judgment.

The amount of income or assets that may be applied toward the judgment is limited by federal and Illinois law. The JUDGMENT DEBTORS HAVE THE RIGHT TO ASSERT STATUTORY EXEMPTIONS AGAINST CERTAIN INCOME OR ASSETS OF THE JUDGMENT DEBTORS WHICH MAY NOT BE USED TO SATISFY THE JUDGMENT IN THE AMOUNT STATED ABOVE.

- Under Illinois or Federal law, the exemptions of personal property exist. The following personal property, owned by the debtor, is exempt from judgment, attachment, or distress for rent:
 - (a) The necessary wearing apparel, bible, school books, and family pictures of the debtor and the debtor's dependents;
 - (b) The debtor's equity interest, not to exceed \$ 4,000 in value, in any other property;
 - (c) The debtor's interest, not to exceed \$ 2,400 in value, in any one motor vehicle;
 - (d) The debtor's equity interest, not to exceed \$ 1,500 in value, in any implements, professional books, or tools of the trade of the debtor;
 - (e) Professionally prescribed health aids for the debtor or a dependent of the debtor;
 - (f) All proceeds payable because of the death of the insured and the aggregate net cash value of any or all life insurance and endowment policies and annuity contracts payable to a wife or husband of the insured, or to a child, parent, or other person dependent upon the insured, whether the power to change the beneficiary is reserved to the insured or not and whether the insured or the insured's estate is a contingent beneficiary or not;
 - (g) The debtor's right to receive:
 - (1) a social security benefit, unemployment compensation, or public assistance benefit;
 - (2) a veteran's benefit;
 - (3) a disability, illness, or unemployment benefit; and
 - (4) alimony, support, or separate maintenance, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor.
 - (h) The debtor's right to receive, or property that is traceable to:
 - (1) an award under a crime victim's reparation law;
 - (2) a payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor:
 - (3) a payment under a life insurance contract that insured the life of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor or a dependent of the debtor;
 - (4) a payment, not to exceed \$ 15,000 in value, on account of personal bodily injury of the debtor or an individual of whom the debtor was a dependent; and
 - (5) any restitution payments made to persons pursuant to the federal Civil Liberties Act of 1988 [50 U.S.C. § 1989b et seq.] and the Aleutian and Pribilof Island Restitution Act, P.L. 100-383 [50 U.S.C. § 1989c et seq.]. For purposes of this subsection (h), a debtor's right to receive an award or

payment shall be exempt for a maximum of 2 years after the debtor's right to receive the award or payment accrues; property traceable to an award or payment shall be exempt for a maximum of 5 years after the award or payment accrues; and an award or payment and property traceable to an award or payment shall be exempt only to the extent of the amount of the award or payment, without interest or appreciation from the date of the award or payment.

(i) The debtor's right to receive an award under Part 20 of Article II of this Code [735 ILCS 5/2-2001 et seq.] relating to crime victims' awards.

Money due the debtor from the sale of any personal property that was exempt from judgment, attachment, or distress for rent at the time of the sale is exempt from attachment and garnishment to the same extent that the property would be exempt had the same not been sold by the debtor.

If a debtor owns property exempt under this Section and he or she purchased that property with the intent of converting nonexempt property into exempt property or in fraud of his or her creditors, that property shall not be exempt from judgment, attachment, or distress for rent. Property acquired within 6 months of the filing of the petition for bankruptcy shall be presumed to have been acquired in contemplation of bankruptcy.

The personal property exemptions set forth in this Section shall apply only to individuals and only to personal property that is used for personal rather than business purposes. The personal property exemptions set forth in this Section shall not apply to or be allowed against any money, salary, or wages due or to become due to the debtor that are required to be withheld in a wage deduction proceeding under Part 8 of this Article XII [735 ILCS 5/12-801 et seq.].

- 2) Under Illinois law, every person is entitled to an estate in homestead, Every individual is entitled to an estate of homestead to the extent in value of \$ 15,000 of his or her interest in a farm or lot of land and buildings thereon, a condominium, or personal property, owned or rightly possessed by lease or otherwise and occupied by him or her as a residence, or in a cooperative that owns property that the individual uses as a residence. That homestead and all right in and title to that homestead is exempt from attachment, judgment, levy, or judgment sale for the payment of his or her debts or other purposes and from the laws of conveyance, descent, and legacy, except as provided in this Code or in Section 20-6 of the Probate Act of 1975 [755 ILCS 5/20-6]. This Section is not applicable between joint tenants or tenants in common but it is applicable as to any creditors of those persons. If 2 or more individuals own property that is exempt as a homestead, the value of the exemption of each individual may not exceed his or her proportionate share of \$ 30,000 based upon percentage of ownership.
- 3) Under Illinois law, the amount of wages that may be applied toward a judgment is limited to the lesser of disposable earnings for a week exceed the total of 45 times the federal minimum hourly wage.

- 4) Under federal law, the amount of wages that may be applied toward a judgment is limited to the lesser of (i) 25% of disposable earnings for a week or (ii) the amount by which disposable earnings for a week exceed the total of 30 times the federal minimum hourly wage.
- Pension and retirement benefits and refunds may be claimed as exempt under Illinois law. The judgment debtors may have other possible exemptions under the law.
- 6) In accordance with the provision of <u>Section 522(b)</u> of the <u>Bankruptcy Code</u> of <u>1978</u>, <u>(11 U.S.C. 522(b))</u>, residents of this State shall be prohibited from using the federal exemptions provided in <u>Section 522(d)</u> of the <u>Bankruptcy Code</u> of <u>1978 (11 U.S.C. 522(d))</u>, except as may otherwise be permitted under the laws of Illinois.

THE JUDGMENT DEBTORS HAVE THE RIGHT AT THE CITATION HEARING TO DECLARE EXEMPT CERTAIN INCOME OR ASSETS OR BOTH. The judgment debtors also have the right to seek a declaration at an earlier date, by notifying the clerk in writing at 219 South Dearborn Street, Rm. 2074, Chicago, IL 60604. When so notified, the Clerk of the Court will provide a hearing date and the necessary forms that must be prepared by the judgment debtors or the attorney for the judgment debtors and sent to the judgment creditor regarding the time and location of the hearing.

This notice may be sent by regular first class mail.

Gregorio, Stec, Klein & Hosé Two North LaSalle, Suite 1650 Chicago, IL 60602 312/263-2343 STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

Katelynn Torres, being first duly sworn on oath, deposes and says that she served the above and foregoing Citation To Discover Assets by depositing same in the U.S. mail at Two North LaSalle Street, Suite 1650, Chicago, IL, a true and correct copy thereof in a sealed envelope first class postage prepaid addressed to the person(s) listed above on the 11th day of July, 2023. Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure [735 ILCS 5/1-109], the undersigned certifies that the Statements set forth in this instrument are true and correct.

State mechanical Services, LLC c/o Illinois Corporate Services Company 801 Adlai Stevenson Dr. Springfield, IL 62703

Herman Pride 4732 W. Washington Blvd Chicago, IL 60402

COMPLETE MECHANICAL PIPING LLC. HERMAN PRIDE- Agent 4732 W. Washington Blvd. Chicago, IL 60644

Mr. John Kreamer Kreamer Law Group, LLC 1100 E. Warrenville Rd. Suite 135 Naperville, IL 60563 jckreamer@kreamerlawgroup.com

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure [735 ILCS 5/1-109], the undersigned certifies that the Statements set forth in this instrument are true and correct, except as to Matters therein stated to be on information and belief and as to matters the Undersigned certifies as aforesaid that he verily believes the same to be true.

Bv:

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

SHEET METAL WORKERS' INTERNATIONAL ASSOCIATION, LOCAL NO. 73, and)))) Case No. 22-CV-00605)
THE TRUSTEES of the SHEET METAL WORKERS LOCAL NO. 73 PENSION FUND, SHEET METAL WORKERS LOCAL NO. 73 WELFARE FUND; and SHEET METAL WORKERS LOCAL NO. 73 ANNUITY FUND,)))) Magistrate Judge: Cummings)
Plaintiffs, v.)))
COMPLETE MECHANICAL PIPING, LLC,)
Defendant. CITATION TO DISCOVER ASSETS)) -THIRD PARTY

TO: State Mechanical Services, LLC
Illinois Corporate Services Company – Registered Agent
801 Adlai Stevenson Dr.
Springfield, IL 62703

YOU ARE HEREBY SUMMOND to be present in person at the law offices of Gregorio, Stec, Klein & Hosé, Two North LaSalle Street, Suite 1650, Chicago, Illinois at 10 a.m. on August 23, 2023 and then and there to answer under oath such questions as may be put to you concerning the personal and real property of and/or indebtedness due the above-named Defendant, Complete Mechanical Piping, LLC. address 4542 W. Cermak Rd. Chicago, IL 60624 and Herman Pride Jr., address 4732 W. Washington Blvd. Chicago, IL 60644 and to abide further order of the Court.

YOU ARE FURTHER COMMANDED to produce at said time and place all books, papers and records in your possession or control which may contain information concerning the property or income of Defendant or indebtedness due Defendant, including but not limited to:

All contracts or subcontracts you have with Defendant.

- All lien waivers issued by you to Defendant.
- Copies of all payments by you to Defendant.
- A current statement of any and all amounts owed by you to Defendant.
- Copies of all correspondences between you and Defendant.
- Copies of any documents in your possession not previously produced related to Defendant.

A statement of any amounts or funds that are due, may be due, or are in dispute regarding you and Defendant.

A PERSONAL APPEARANCE IS NOT REQUIRED IF THE DOCUMENTS LISTED ABOVE ARE PRODUCED.

YOU ARE PROHIBITED from making or allowing any transfer or other disposition of, or interfering with, any property not exempt from execution or garnishment belonging to the judgment debtor or to which it may be entitled or which may be acquired by or become due to it; and from paying over to otherwise disposing of any money not so exempt, which is due or becomes due to it, until the further order of the Court or termination of the proceedings. You are not required to withhold the payment of any money beyond double the amount of the judgment.

Judgment was entered in favor of the Plaintiffs on June 8, 2023 in the aggregate sum of \$206,375.05, all of which remains unsatisfied.

YOUR FAILURE TO COMPLY WITH THIS CITATION MAY SUBJECT YOU TO PUNISHMENT FOR CONTEMPT OF THIS COURT.

Attorney Signature

By: THOMAS G. BRUTON, CLERK

CLERK OF THE COURT

London W. Garr DEPUTY CLERK

DATED: July 17, 2023

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UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

SHEET METAL WORKERS' INTERNATIONAL ASSOCIATION, LOCAL NO. 73, et al.)
Plaintiffs,) Case No. 22-CV-00605
v.) Magistrate Judge: Cummings
COMPLETE MECHANICAL PIPING, LLC,	ý
Defendant.	,

Judgment Order

The cause before the Court on Plaintiffs' Motion to Enforce Settlement Agreement, due notice given, and the Court fully advised in the premises, IT IS HEREBY ORDERED:

1. Judgment is entered jointly and severally against Complete Mechanical Piping, LLC and Herman Pride, pursuant to paragraph 8 of the breached settlement agreement in this case, and in favor of Plaintiffs, in the amount of \$206,375.05; SO ORDERED.

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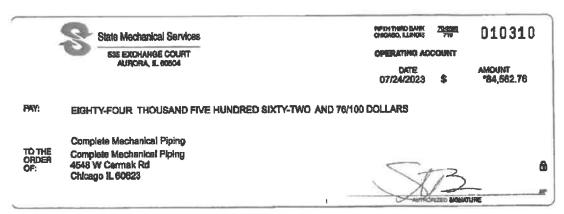
U.S. MAGISTRATE JUDGE

DATE: June 8, 2023

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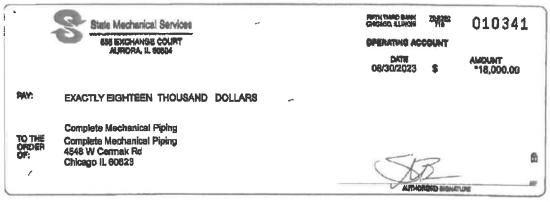
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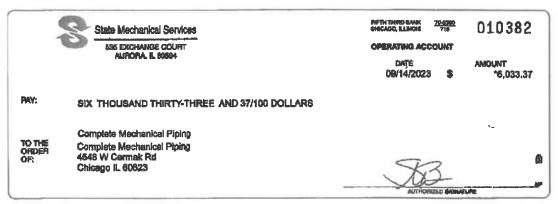
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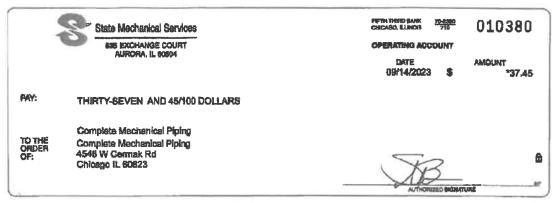


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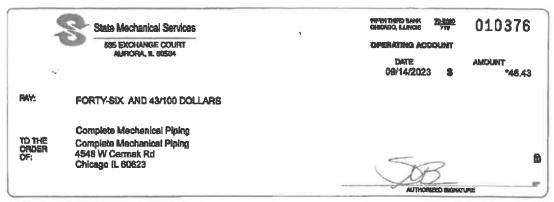
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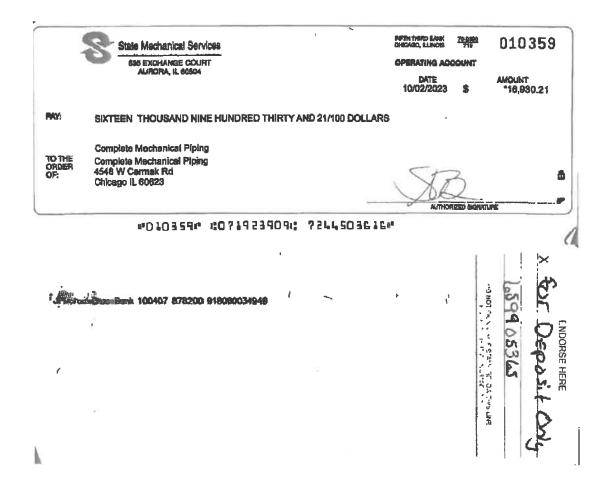
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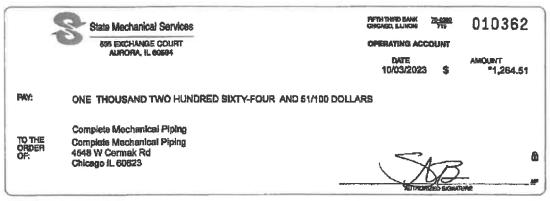
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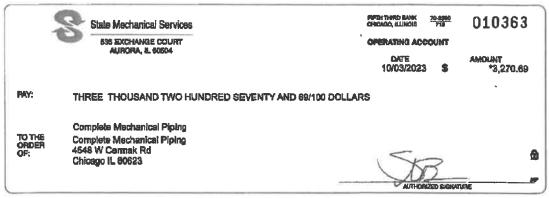
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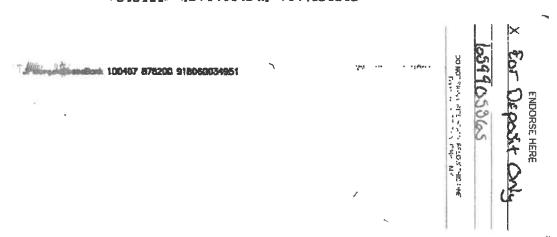


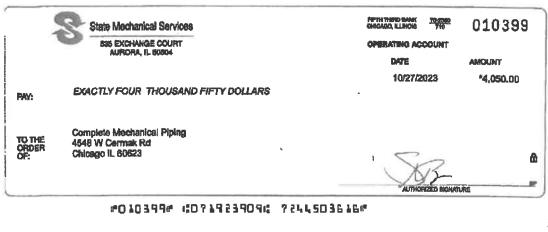
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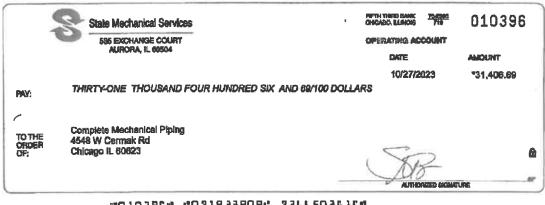
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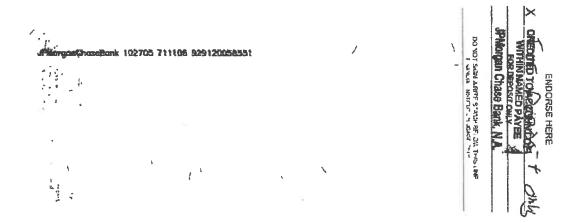
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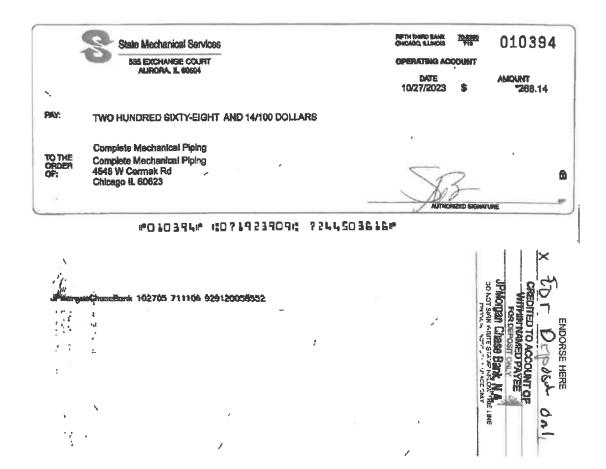
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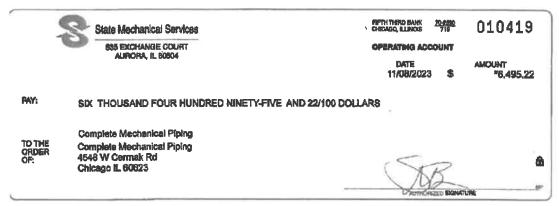
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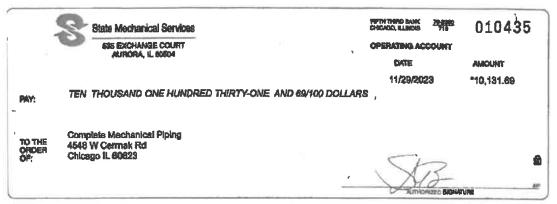




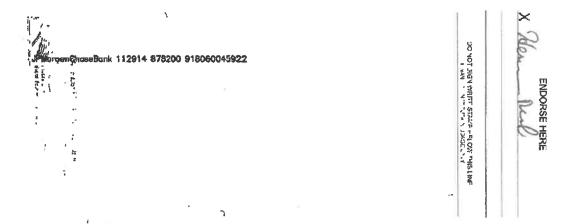


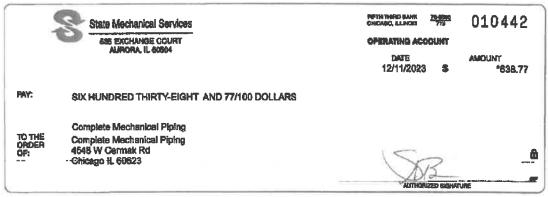
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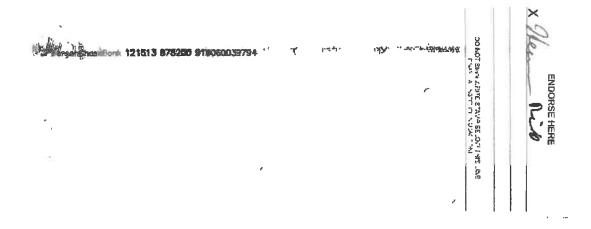


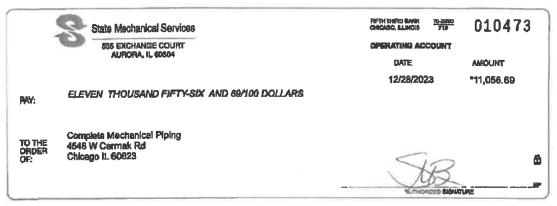
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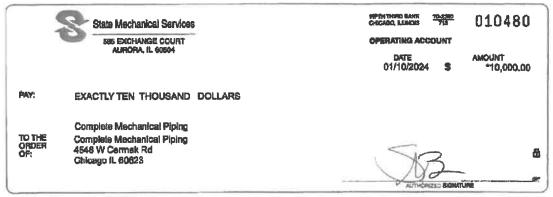


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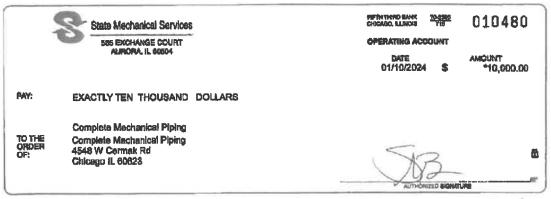
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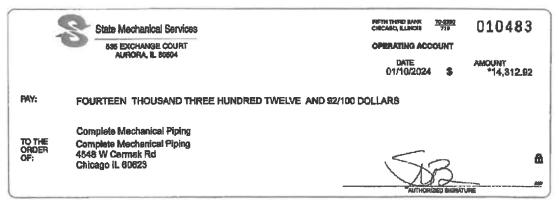
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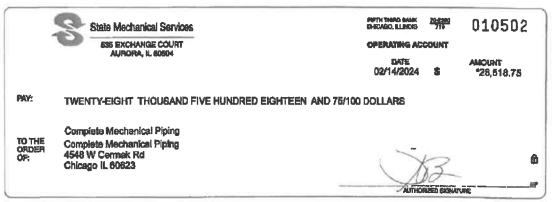


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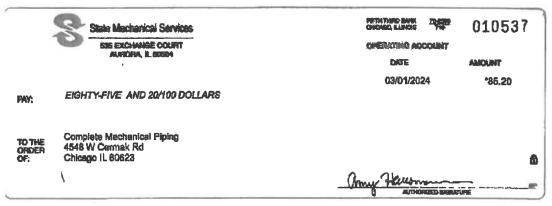
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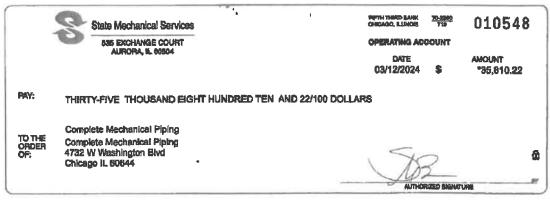
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